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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,003	12/14/2001	Thomas T. Hardt	COMP:0253/VAN P00-3346	2407

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EXAMINER

FLANDRO, RYAN M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/022,003

Applicant(s)

HARDT, THOMAS T

Examiner

Ryan M Flandro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:
  - a. The word “inventions” at page 4 line 5 should be singular.
  - b. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladouceur (US 5,868,535) in view of Dessirier (US 5,009,557).
  - a. Claim 1. Ladouceur discloses a first member **52**, a structure having a head **24**, a body **22** connected to the head **24**, a stop **38** and a lip **32**, the body **22** extending through the first member **52**, the first member **52** having a plastically deformed region **68** (figure 7; column 6 lines 32-39) receiving the head **24**, the lip **32** being deformed generally towards the stop **38**. (See generally figures 1 and 3-7; column 4 line 56 – column 6 line 39).  
Ladouceur does not explicitly disclose a second member through which the body extends so as to create a pivot and wherein the deformed lip prevents separation of the second member from the first member during relative pivotal motion between the first and second member. Dessirier, however, teaches a second member **10** through which the

body **5, 8** extends so as to create a pivot and wherein the deformed lip **16** prevents separation of the second member **10** from the first member **7** during relative pivotal motion between the first **7** and second member **10** to allow relative rotation between the first **7** and second **10** members (see figure 2; column 2 lines 59-64). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made modify the rivet of Ladouceur by providing a second member through which the body of the rivet extends in order to allow relative motion between the members as taught by Dessirier.

b. Claim 2. Ladouceur shows the body **22** having a generally circular cross-section (see figure 1).

c. Claim 3. Ladouceur shows the lip **32** encircling the stop **38** (see figures 1-3).

d. Claim 5. The combination of Ladouceur and Dessirier fails to explicitly disclose that the head has a plurality of flat sides. Ladouceur discloses a plurality of slightly arcuate outer edges **46** (see figures 1 and 2; column 5 lines 5-35). It has been held, however, that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sides of the head of Ladouceur to make them flat.

e. Claim 6. The combination of Ladouceur and Dessirier fails to explicitly disclose that the flat sides are arranged in a hexagon. Ladouceur discloses a plurality of slightly arcuate outer edges **46** in the shape of an octagon (see figures 1 and 2; column 5 lines 5-35). It has been held, however, that a change in the shape of a prior art device is a design

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consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the shape of the head of Ladouceur to be arranged in a hexagon.

f. Claim 7. Ladouceur explicitly discloses that the first member **52** is formed from a metal sheet material (see figure 4; column 1 line 42).

g. Claim 8. The combination of Ladouceur and Dessirier fails to disclose that the sheet metal material of the first member is a portion of a computer chassis. A recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

h. Claims 9-15. The combination of Ladouceur and Dessirier, as applied above, is substantially the same as the rivet system recited in the instant application and therefore, the recited method of forming such rivet system would be inherent to the combination. Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same

as a device described in the specification, it can be assumed the device will inherently perform the same process. *In re King*, 802 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

i. Claim 16. Ladouceur discloses a body **22**; a head **24** disposed at one end of the body **22**; a deformable retention member **32** disposed at a generally opposite end of the body **22** from the head **24**; and a stop **38** positioned at a predetermined distance from the head **24** to permit control of the deformation of the deformable retention member **32**. (See generally figures 1 and 3-7; column 4 line 56 – column 6 line 39).

j. Claim 17. Ladouceur further shows that the deformable retention member **32** comprises a generally circular lip (figures 1-4).

k. Claim 18. Ladouceur also shows that the stop **38** is disposed within the generally circular lip **32** (figures 1-4).

l. Claim 19. The combination of Ladouceur and Dessirier fails to explicitly disclose that the head comprises a plurality of flat sides. Ladouceur discloses a plurality of slightly arcuate outer edges **46** (see figures 1 and 2; column 5 lines 5-35). It has been held, however, that a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Further, the combination of Ladouceur and Dessirier fails to explicitly state the reason for the shape of the sides as being to better secure the head to the first member during plastic deformation of the first member. Nevertheless, where there is reason to believe that a functional limitation asserted to be critical to establishing novelty in the claimed subject matter may, in fact, be an inherent characteristic of the prior art, Applicant may be required to prove that the subject matter shown in the prior art does not possess the

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characteristic relied upon. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990); In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138 (Fed. Cir. 1986); In re Hallman, 655 F.2d 212, 215, 210 USPQ 609, 611 (CCPA 1981); In re Fitzgerald, 619 F.2d 67, 70, 205 USPQ 594, 596-97 (CCPA 1980); In re Best, 562 F.2d 1252, 1255, 195 USPQ 430, 433-34 (CCPA 1977); In re Ludtke, 441 F.2d 660, 664, 169 USPQ 563, 566 (CCPA 1971); In re Swinehart, 439 F.2d 210, 213, 169 USPQ 226, 229 (CCPA 1971).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sides of the head of Ladouceur to make them flat.

4. Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladouceur and Dessirier as applied above, further in view of Whiteside et al (US 3,551,015) (Whiteside). The combination of Ladouceur and Dessirier includes all of the recited limitations in claims 4 and 20 except for a relief cut proximate the head to receive material from the first member during formation of the plastically deformed region. Whiteside, however, clearly discloses a relief **18** cut proximate a head **12** in order to receive some of the displaced material from a first member **40** during deformation (see figures 1, 2, and 4a-4d; column 3 lines 58-62). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made modify the rivet of Ladouceur and Dessirier by providing a relief region proximate the head in order to receive displaced material during deformation as taught by Whiteside.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to deformable rivet systems, pivot structures, and methods for creating such structures:

U.S. Patent 6,139,237 to Nagayama (shows hexagonal head having flat sides – fig. 2B)

U.S. Patent 4,878,795 to Woodrow et al.

U.S. Patent 4,221,041 to Hufnagel et al.


U.S. Patent 2,096,598 to Sheane

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952. The examiner can normally be reached on 8:30am - 5:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ryan M. Flandro  
January 6, 2003

  
**Lynne H. Browne**  
***Supervisory Patent Examiner***  
**Technology Center 3670**